



**TOWN OF HARPSWELL
PLANNING BOARD MINUTES
May 21, 2008
APPROVED**

MEMBERS PRESENT

Dorothy Carrier, Chair
Joanne Rogers, Vice Chair
John Papacosma
Kenneth Cichon
Roberta Floccher, Associate
Debora Levensailor, Associate

MEMBERS ABSENT

Robin Brooks

STAFF PRESENT

Carolyn Tukey, Town Planner
Melissa Swanson, Recording Secretary

The Town of Harpswell Planning Board meeting being duly advertised in the Times Record was called to order at 6:33 PM by Ms. Carrier, Chair. Introductions were made by the Board Members, and the Pledge of Allegiance was recited. The Chair read the Agenda, and then explained the hearing process and procedures for Planning Board meetings. Since one Board member was not present (Mr. Brooks), the Chair appointed Ms. Floccher a full voting member for the meeting.

CONSIDERATION OF MINUTES

Ms. Rogers, Vice Chair, moved to accept the Minutes of April 16, 2008 as printed, and Mr. Papacosma seconded. Ms. Levensailor noted two corrections – the dates at the top of the pages were incorrect, and also page 9, near the top, there was a small typographical error. Mr. Papacosma made the motion that the Minutes be accepted, with correction, and the Vice Chair seconded the motion. The Board accepted the Minutes as corrected, with Ms. Floccher abstaining.

OLD BUSINESS

There was no old business to discuss.

NEW BUSINESS

ITEM 1

08-05-01 Edward Robinson (owner/applicant), Subdivision Amendment, Tax Map 34, Lot 54, 7 Hamlin Lane, Orr's Island

Mrs. Edward Robinson (Mary) spoke on behalf of her husband, who was in England on business. She mentioned that her husband has had several conversations with the Town Planner. She stated that the project was for approval of a land swap between lots on either side of their property, Lots 52 and 56. Also, she added that a land swap occurred in 1993, but was never registered appropriately.

They are also seeking approval from the Board with Harpswell Partners for a land swap on Lot 52, subject to final approval of both owners, and the request was for an even amount of property. The request was to move a lot line, with no effective change of frontage for any of the lots.

The Town Planner reminded the Board that they had received an amended subdivision plan at the site visit.

The Chair mentioned that there was a site visit on Monday which was attended by several Board members and the Town Planner. She said that the Board members had no serious questions at that point.

Mrs. Robinson asked the Board if there were any questions, and also mentioned that there had been a non-conforming shed on the property that has since been removed. She also said that they were seeking the subdivision amendment for the purposes of adding a garage to their house, which would then meet all appropriate criteria, including setbacks. The deed of ownership would also be changed to include Mary Robinson's name.

The Town Planner mentioned that there was a question from the Board regarding setbacks and road frontage, and went on to explain how the property would conform to the Town's Ordinances.

The Chair asked if there was any public comment or question; there being none, she continued.

The Chair made a motion that the Town of Harpswell Planning Board recognize the line established by an exchange of deeds in 1993, which are recorded in Book 11076, pages 301 and 302. The Chair asked for any discussion; there was none.

Mr. Papacosma seconded the motion. The Board voted unanimous approval.

The applicant had requested that the requirements of Sections 8.3.2.5, .6, .10, .11, .12, .13, .14, .15, .16, and .18 through .35 of the Subdivision Ordinance be waived.

The Vice Chair made the motion to approve the requested waivers, and it was seconded by Mr. Cichon. For informational purposes, the Chair stated that these Sections dealt with plan elements such as topography, wildlife habitat, utilities, construction costs, etc.

The Chair asked if there were any questions or concerns; there were none.

The Board agreed unanimously that said sections of the Subdivision Ordinance be waived.

After a brief discussion regarding the "Findings of Fact, Approval Standards" section of the Town Planner's memo, the Board decided not to address each item individually.

The Vice Chair moved to approve the Bruce L. Allen Subdivision Amendment with the standard conditions of approval and the additional condition of approval being that the applicant submit the proposed lot sizes, lot frontages and shoreline frontages for each of the three lots so that compliance with the Town ordinances can be determined by the Code Enforcement Office.

Mr. Cichon seconded the motion.

The Town Planner recommended that the motion be amended to not include the additional condition of approval because the applicant had met it by virtue of the revised plan given to the Board at the site visit on Monday.

After discussion, the Board agreed not to accept the suggestion of the Town Planner, and to include the additional condition of approval.

The Chair asked if there were any other questions or concerns from those present; there being none, the Board voted unanimously for approval.

The Chair and the Board agreed to a five minute recess in order to sign the plans brought by Mrs. Robinson.

OTHER BOARD BUSINESS

There were two jurisdictional issues addressed:

1) Cove Enterprises, who came before the Planning Board February 20, 2008 with a commercial wharf application. At this time, they are requesting to renovate an existing outbuilding near the wharf.

There was discussion among the Board members regarding the non-conformance of the proposed structure, especially whether it was possible to make it conforming to the 75 ft. setback from the shore specified in the Ordinance. Reference was made to the Code Enforcement Officer's memorandum which stated that the proposed structure was to be "identical in size and placement".

The Vice Chair asked if there was a "time limit" when something was to be reconstructed, with regard to when it was last used. Discussion among the Board members elicited comment from the Town Planner, who said that the time period in question was one year; damage, destruction or removal were the three considerations, and she went on to say that there was no "cessation of use" in the non-conforming language of the Ordinance. Mr. Papacosma read from the Shoreland Ordinance, and the Town Planner referred the Board to page 6, "§10.3.3 Change of Use of a Non-Conforming Structure", and "§10.4 Non-Conforming Uses". The Town Planner clarified the question, which was whether the setback was the same when the building was constructed as it is at the present time.

The Vice Chair stated that she was uncomfortable approving something "piecemeal".

The Chair asked the Board whether or not they wanted to take jurisdiction, and reiterated the information before them: that it was non-conforming due to the front setback, the proposed structure was to be identical in size and placement, it was fish-related, and had been determined by the Code Enforcement Office to meet the setbacks to the "greatest practical extent".

The Vice Chair asked if it mattered who was using the structure, and the Town Planner said that it was a commercial venture and that it did not matter whether it was owned or leased.

Mr. Cichon and the Chair deferred to the rest of the Board members, because they had not seen/could not remember the structure in question, and they had no other information except what was presented by the Code Enforcement Officer's memorandum.

The Town Planner explained that, since the Ordinance did not address what was water dependent and what was not, it was a "judgment call" of the Code Enforcement Officer.

Mr. Papacosma read from the Ordinance regarding Commercial Fishing District I ("CF1"), and Mr. Cichon discussed with the other Board members the required setbacks with regard to the CF1 District.

The Town Planner said that the applicant had not come before the Planning Office to discuss site plan review yet. She referred the Board to "§3. Applicability" of the Site Plan Review Ordinance.

There was further discussion among the Board members regarding parking, and other matters from the applicant's previous appearance before the Board.

The Chair asked the Board what they wanted to do, and reiterated that, if they did nothing, the matter would remain with the Code Enforcement Office. She reminded the Board that they needed to make their decision on the information that they had been provided. She also stated that they needed a way to address the questions and concerns of the Board members, whether it was a workshop or a meeting with the Code Enforcement Office.

The Town Planner asked the Board if it would be helpful if there was an application involved with jurisdictional items which would address items that the Planning Board might question.

The Chair reiterated that it may be beneficial to have a meeting with the Code Enforcement Office in order to determine what kind of information they would need in order to make a jurisdictional determination.

Mr. Papacosma stated that it would be helpful to have some of the original submission materials when considering a jurisdictional item.

The Chair then asked the Board whether they wanted jurisdiction of the item, and Mr. Papacosma reminded the Board that there were several members who did not have recollection of the site, etc. and were uncomfortable making an uninformed decision.

The Vice Chair asked if the Board could ask the applicant whether the wharf was being built for the use of the individual who is currently using the wharf to build traps.

The Chair asked the applicant to address the Board, and he introduced himself as John Boomer from Orr's Island.

Mr. Boomer stated that the person using the wharf would be the only person using the fish house, and the Vice Chair clarified that it would be the one fisherman and his stern man. Mr. Boomer reminded the Board that they put the restriction on the wharf permit that there could only be one fisherman and his sternman.

The Chair said that the Board had expressed their concerns having to do with how the Town manages jurisdictional items, and that the Town Planner could pass them on.

Mr. Boomer asked the Board if he could answer any more of their questions. Mr. Papacosma recollected the steep slope behind the fish house, and Mr. Boomer explained that it gained about ten feet or so in elevation. He also reminded the Board that all the information had previously been submitted. He also stated that they plan to keep erosion control mix on the slope in an effort to keep from having problems.

The Chair said that the Code Enforcement Office would keep jurisdiction of the item. The Planning Board agreed to take no action.

2) The second jurisdictional item was the 30% expansion of a non-conforming storage shed. The Chair stated that, again, the Board was missing information. Regarding the Code Enforcement Officer's memorandum, she asked for clarification regarding the phrase "no significant benefit in relocation".

The Vice Chair recommended that the Planning Board take jurisdiction of the shed, because she had no recollection of what it looked like.

Mr. Papacosma seconded the motion.

The Chair stated that there was not enough information available in order to make an informed decision, and that the Board keep jurisdiction of the shed.

There was discussion among the Board members regarding the issue of non-conforming sheds, and the lack of information on jurisdictional items.

The Town Planner stated that the Board could consider tabling the application until there was more information; however, she then informed the Board that they had 40 days from the time of submission, and that, at present, 30 days had elapsed.

The Vice Chair withdrew her motion, and the Chair withdrew the second.

The Town Planner said that the 40 days would be up before the next Planning Board meeting, and the only way to get around that would be to have a special meeting.

Discussion ensued among the Board members regarding the obtaining of additional information.

The Vice Chair moved for a ten minute recess so the Recording Secretary could retrieve additional information from the Code Enforcement Office files; this was agreed to by the Board.

Consequently, the Board members studied the information retrieved, and discussed the placement of the shed.

Mr. Papacosma said that the additional information was helpful to the Board, so that a more informed decision could be made.

The Chair stated that no action would be taken.

The Chair suggested adjourning to the workshop portion of the meeting, and the Vice Chair seconded the motion. There was unanimous agreement.

The meeting adjourned at 7:50 PM.

Respectfully submitted,

Melissa Swanson
Recording Secretary